IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

WRIT PETITION NO.5015 OF 2005

Atmaram Mahadev Sase. ...Petitioner.
Vs.
The State of Maharashtra & Ors. ...Respondents.
....
Mr. N. V. Bandiwadekar for the Petitioner.
Mr. C. R. Sonawane, AGP for Respondent Nos.1 and 2.
Mr. Santoshi Shetty for Respondent No.5.
.....

CORAM : A.P. SHAH AND
DR.D.Y.CHANDRACHUD, JJ.

August 8, 2005.

P.C.:

Heard Counsel appearing for the parties.

The Petitioner was appointed on 16th June 1986 in the school run by Respondent No.3. He obtained teaching qualifications on 23rd May 1992. Respondent No.5 was appointed from 16th June 1987 onwards. He obtained B.Ed. Qualification on 31st May 1991. The services of Respondent No.5 came to be terminated sometime on 7th April 1991. That order was set aside and order was issued for reinstatement with continuity of service from 12th October 1997.

The appointment to the post of head of the Secondary

School is covered by Rule 3(3) read with Schedule 'F' of the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Rules, 1981 for the purposes of fixing of seniority. The teachers are graded firstly in Group 'D' i.e. those who are untrained and then graded in category 'C' i.e. those who obtained teaching qualifications. The appointment to the post of Headmaster is from the category of trained teachers based on the seniority as trained teacher. It will, therefore, be clear that the seniority in category 'D' is distinct and different from category 'C'. For the purpose of Rule 3(3) what has to be considered is the seniority in category 'C'.

In the instant case thought the appointment of the Petitioner was prior in time, he obtained the qualifications only in May 1992 and came in category 'C' only in May 1992, whereas Respondent No.5 obtained qualification on 31st May 1991. Therefore, the Education Officer has rightly held that Respondent No.5 is senior to the Petitioner. No interference is warranted with the order of the Education Officer. Petition is dismissed.

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